

EXHIBIT 5

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

**NANCY A. MCCLURE-SOTO,
Plaintiff**

V.

**BEXAR COUNTY, TEXAS,
Defendant**

§§§§§§§§§§

NO. 5:21-CV-00660 -JKP-HJB

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ALEXANDRIA MILLAN,
Plaintiff

V.

**BEXAR COUNTY, TEXAS,
Defendant**

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NO. 5:21-CV-00659 -JKP-HJB

AFFIDAVIT OF TANYA GAITAN RE WORK ENVIRONMENT

THE STATE OF TEXAS

COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this date personally appeared TANYA GAITAN, who, after being duly sworn, deposed as follows:

“My name is TANYA GAITAN, and I am over the age of eighteen (18) and of sound mind, and fully capable of making this affidavit. I am currently employed by Bexar County, Texas as the Budget & Finance Director in the Budget & Finance Dept. Previously I was employed as Budget Manager, in the Budget & Finance Dept. from 2016 to 2022. In that capacity, I was Alexandria Millan’s (“Millan”) direct supervisor, and I worked in the same office area as Nancy McClure-Soto (“McClure-Soto”). Based upon my job and my personal interaction with Millan and McClure-Soto, I have personal knowledge of the facts stated herein and they are true and correct.

"In November, 2019, Millan filed two EEOC Charges alleging that she had been discriminated against on the basis of Race and National Origin, and then retaliated against for reporting that discrimination. Those complaints were investigated by Bexar County HR and the

EEOC. As Millan's supervisor, I did not discuss those EEOC matters in the workplace with Millan or with anyone outside of Human Resources and the attorneys with the Bexar County District Attorney's Office, Civil Division. These matters are confidential, and Millan was treated by me with the same courtesy and respect as any other employee. Millan on the other hand would make statements in the workplace about who she had talked to in the EEOC, their importance, or about the EEOC process.

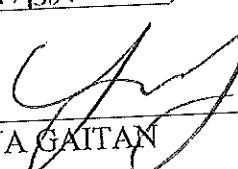
"Beginning in January, 2020 and continuing until June, 2020 when McClure-Soto left the employment of Bexar County, Texas, I began to observe conduct by Millan and McClure-Soto in the workplace that made me very uncomfortable. Some of the odd things that happened, I had to acknowledge could have been coincidence. Accordingly, I did not discuss that conduct with anyone or my significant discomfort. However, it appeared to me that others were also distressed.

"On January 26, 2020, a Budget Analyst under my supervision, Jasmine Leon had a verbal altercation with Nancy in the lobby area. Jasmine believed that Nancy was filming her and others as they arrived into work that morning. I did not personally observe any of this event. Jasmine speaking out about that incident, caused others in the department to also speak up about what their similar experiences, what they had observed and/or how they had been made to feel.

"That day I sent an email to Tina Smith-Dean detailing what I had observed, felt and had concerns about with regard to McClure-Soto and Millan's behavior directed to me. I also described, without breaking confidence, how at least one employee in the department believed that the stress and fear was making him physically sick. And I expressed my concerns about the potential harm a disgruntled employee could do to our shared information drives within the office, or to just one person's work product on those drives. A true and correct copy of that email is attached hereto as Exhibit A.

"Further Affiant sayeth not."

SIGNED this the 1 day of December, 2023.


TANYA GAITAN

Sworn to and subscribed before me on this the 1st day of December, 2023.


NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

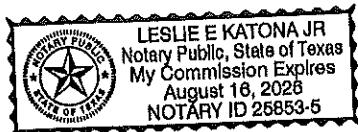


EXHIBIT A

From: Smith-Dean, Tina
Sent: Wednesday, March 11, 2020 8:36 AM
To: Guevara, Veronica
Subject: FW: Hostile Work Environment

Tina M. Smith-Dean
Assistant County Manager

From: Gaitan, Tanya <tgaitan@bexar.org>
Sent: Wednesday, February 26, 2020 1:10 PM
To: Smith-Dean, Tina <Tina.Smith@bexar.org>
Cc: McCabe, Seth <smccabe@bexar.org>
Subject: Hostile Work Environment

Tina,
I am emailing you today to inform you of the incidences that have taken place in the last month. The reason for me emailing you this information is so that you are aware that me and my staff are working in a hostile work environment.

- February 6, 2020-Nancy Soto walked passed my office and loudly spoke behind her saying, "Gosh they make it so easy." I assume she was speaking to Alexandria Millan who is two offices from my office. I did not know what that meant, so I ignored it. I later walked into the copier room to get something from the color printer and picked up printed copies at the color copier. When I flipped it over it was colored copies of you, Seth and my calendars. Nancy walked in took them from my hands and told me, "Thank you, those are mine." She walked out. I do not have any information to hide, however, I now feel that basic information can be used in a manipulative manner due to the personnel issues I am having with Alexandria. Therefore, I made the decision to only allow my managers which is you and Seth to have access. This does not impede my processes with my analysts since they typically call or email me to set up meetings. However, Alexandria has expressed concern on February 19, 2020 of not having access to my email when she asked Seth how she was supposed to get a leave request approved if she did not know when I would be back in the office.
- February 6, 2020-I have recently begun to lock my door, however, I am aware Nancy holds the extra keys for my office. I walked into my office first thing in the morning and found my recycling bin out of place between the wall and my desk. The placement was such that I would not have been able to walk out without moving it the when I left work the previous day. This may be paranoia, but I found a hair on my desk similar to the color of Nancy's hair. I do not have proof that she was in my office. I want to point this out that this is how I am feeling in my workspace. Again I do not have anything to hide. I lock any copies I may have of my employees personnel file (unofficial file). I do feel uncomfortable with another employee who is not my manager walking into my office without permission. I leave my personal belongings such as food and my purse in this office trusting it will be safe if I am away from my desk. I have stopped bringing food to the office. I no longer leave my water on its own. This is in case Nancy or Alexandria try to tamper with it. They have not done any of this to my knowledge, however, I feel unsafe at work. You did respond quickly to have my locks changed, which I appreciate.
- February 7, 2020-Alexandria came into my office and asked if I was going to her "thing". I replied, "What thing?", and she said her EEOC mediation. I told her I have not received final direction on whether I will be attending or not and she should contact the EEOC. She then said she called them and did not know. I responded that I did not know either. She then walked out. I have been very private with the pending EEOC complaint to respect

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Alexandria's privacy and have not discussed it with anyone besides my upper management and the DA's Civil Section staff. I find Alexandria's question to be highly inappropriate and made me uncomfortable. I wanted to make you aware of this so it can be on record.

- February 24, 2020-Alexandria and Nancy were openly talking about EEOC complaints in the hallway. This occurred as I was walking back from my weekly meeting with Seth. I did not know the extent of their conversation, however I did hear Alexandria say as I walked in between them "she is the head of the EEOC" and "that is the person I met". Nancy was sitting at the front desk and Alexandria was standing in the hallway behind the front desk. Again, I think this is inappropriate to discuss in the open.
- February 26, 2020-I walked out of my office to go to the bathroom. Alexandria just walked into her office, which I noticed at my desk before I walked out. I walk into the bathroom and walked into the stall. There was another individual in already another stall. I hear another person come in, go into a stall, at the same time I walk out of the stall to wash my hands. The person who was in there with me walked out at the same time. This person finished washing their hands and walked out, Alexandria then walked out of the stall and began washing her hands. I did not make eye contact nor spoke to her. I finished before and began walking out. She followed directly behind me all the way until I came to my office. This is the same day the incident occurred between Jasmine Leon and Nancy.
- Various times in the last few weeks: Each time I have visited Tina when I have been called to her office, I have seen Nancy Soto coincidentally in the supply room. This occurs almost every time. She does not look or say anything to me. But I assume she wants me to be aware of her presence.
- I do not recall the date, but it occurred in February 2020. Alexandria has followed me into the bathroom twice in one day directly behind me. The reason this was noticeable to me is because I walked out of my office to go to the bathroom. I saw Alexandria walking away from me at the end of the hallway towards your office. I walked through the front lobby to the bathroom. I then saw Alexandria walk out of the office exit door near Seth's office. I went into the bathroom, heard her walk in, and I eventually walked out before her. Later in the afternoon, I walked out of my office to go to the bathroom, Alexandria followed immediately behind me, went into the bathroom, and I left before her. My presumption is she is trying to see if I will speak to her. I almost feel like it is a set-up, which I will not respond to even if the verbal communication is hostile. However, it would be my word against hers. No incident occurred, I do not feel comfortable speaking with either one of them one on one and alone due to concern of false statements being made against me.
- I have asked the Facilities Director if the cameras were active in the garage by my car. This is a precaution in case I am approached by Alexandria or Nancy. Alexandria has shared she has been in a physical altercation at a bar with a man. Therefore, I know she is capable of doing that. No incident has occurred. It is simply the environment that I feel I am in and want to have record if something were to happen to me or my property.
- I have had other coworkers share with me that they feel antagonized by Alexandria and Nancy at the office. I will not share those details since I have not been a witness to it. I will allow the employees to approach you on their own without any encouragement from me. The reason I point this out is to show I am not the only employee in this hallway who feels uneasy.
- This is the most concerning part for me. I have had several employees worried about their work environment. Some of become physically ill due to the stress of the work environment with the last month. I have had several of my employees voice their concerns this week about their spreadsheets/documents and the upcoming budget process. They have lost trust in Alexandria. They do not know if she will sabotage their work or share private conversations and recommendations regarding budget requests from the offices and department. I 100% agree with them. There are mechanisms where we can see who saved their documents last, however I am aware that Nancy has files with their passwords. The files also has properties that show who saved a file last. However, I do not have the time to go through 100+ spreadsheets and documents to ensure my staff and my files have not

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been tampered with. I do not know how we are able to function properly especially with the upcoming budget process. Accuracy of the budget document is my number one responsibility as the Budget Manager. I feel that this is at jeopardy.

I have and will continue to maintain my professionalism at work with the everyone to include Nancy and Alexandria. I do walk into work every day expecting another incident to happen because of Alexandria and Nancy's behavior. It appears to be getting worse. Today, my employee Jasmine Leon has been in a verbal altercation with Nancy.

I have not reported this since most of the incidences have been minor to me, but I feel that the work environment is getting worse by the day and it is beginning to affect my employees who I care about and is the reason I want to put this on record. I want to be clear that I do not want to come off as a victim in this situation. I am capable of maintaining my professionalism, but also want to protect my employees from any harm. My goal as a manager is to create a safe and fun work space for my staff while holding each employee and myself accountable. They are hard-working and an intelligent group of individuals. This behavior that has been occurring is affecting my staff. This is a toxic work environment that I nor my staff can continue functioning in.

Tanya Gaitan

Budget Manager
Bexar County Budget Department
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San Antonio, TX 78205
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